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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,987	12/05/2003	Dickory Rudduck	112427.132US1	7249
28089	7590	03/02/2005	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP 399 PARK AVENUE NEW YORK, NY 10022			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER

3637

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,987

Applicant(s)

RUDDUCK ET AL.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 30-47 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 30 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-38 and 40-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's response filed on November 19, 2004.

Claims 7-29 have been cancelled in view of applicant's preliminary amendment filed August 16, 2004.

Election/Restrictions

1. Applicant's election of invention in the reply filed on November 19, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 1-6, 30, and 39 have withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 19, 2004.

Regard to claim 39 which is dependent upon the non-elected claim 1 and the cancelled claim 8, therefore claim 39 has been also withdrawn.

Claim Objections

3. Claim 39 is objected to under 37 CFR 1.75(c), as being of improper dependent form as depending upon a cancelled claim 8. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Drawings

4. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Figures 2, 3, and 13, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 40-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regard to claim 40, it is confusing whether applicant intends to claim a joining clip it self, or a building element previously claimed in claim 31 in combination with a joining clip.

Regard to claims 41-47, the recited language "The building element of claim ..." causes a confusion of the scope of the claimed invention. It is confusing whether this "building element" refers to the joining clip or refers to the building element of previous claim 31 since there are two "building elements" previously recited in claim 40 (see lines 1 and 2). Clarification is required. **Due to confusion, claims 40-47 have been treated as a combination** of a building element of claim 31 in combination with a joining clip.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent No. 2,679,939.

The French referent shows and discloses a building element being used for a stud, the building element (see Attachment A) comprising a first set of four channels (A) and a second set of four channels (B), the first and second sets of channels being spaced apart from one to other by first and second webs (10A, 10A'), the first and second webs (10A, 10A') being parallel to

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each another, each of the channel (i.e., 8A) having channel walls formed by resilient arms (i.e., 11, 13A; 13A, 15A) to receive a co-operating means for mounting a panel (1A, 1B) or bracket on the building element, said co-operating means including a joining clip (19) having a first part and a second part, the first part having a pair of resilient arms (19a, 19b) providing co-operating means for mounting the panel to the building element, and the second part (21) providing means for connecting the joining clip (19) to panel, and the resilient arm (19a, 19b) of the joining clip (19) having grooves to complement grooves in the wall of the channel.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 31-38 and 40-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh (US Patent No. 5,996,299) in view of Mamane (PCT NO. WO 95/27834).

Hsueh shows and teaches a building element being used for a stud or mullion, the building element (1) being made of rigid material such as stainless steel, the building element (1) comprising a first and second sets of two channels (14) being spaced apart from one to other by a web (11), each of the channel (14) having a base (14) and a pair of sides (144) to receive a co-operating means for mounting a panel (2) on the building element, said co-operating means including a joining clip having two separated parts (4, 3), the first longitudinally extending part (4) including arms (41) being snap into the channel of the building element for providing co-

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operating means for mounting the panel to the building element, the first longitudinal extending part (4) having a protrusion (42) to be snap into a channel of the second longitudinally extending part (3) for connecting the joining clip to the panel, and the second part (21) providing means for connecting the joining clip (19) to panel. Hsueh does not define the building element (1) having two webs extending between the sets of channels. Mamane teaches a building element having two sets of channels being spaced apart by two parallel webs (2a, 2b) for providing stronger support of the building element. It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the building element of Hsueh having two parallel webs provided between two sets of channels as taught by Mamane for increasing the strength of the building element and providing a stronger support for the building element.

Regard to claims 33-38, although Hsueh does not define the building element including at least two arms being connected at an angle or lie in more than one plane as claimed. Mamane teaches the building element may including at least two arms (1, 2) being connected together at a 90 degrees and lie in a same plane, the arms (1, 2) would be connected in a T shape configuration. It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the building element of Hsueh having a plurality of arms being connected together in different plane as taught by Mamane for connecting more than one panels to the building element.

Citations

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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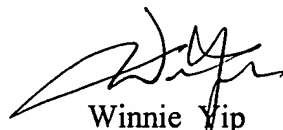
Matsubara '067, Dallen '374, Lang et al. '839, Huebner et al. '300, Rothschild '896, European Patent No. 1,022,403, European Patent No. 671,519, FR No. 2,753,733, and FR No. 2,679,939 teach various building elements having channels connected by webs and joining clips for connecting panels to the building elements as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
February 18, 2005